

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	File No. EB-01-ST-014
Palouse Country, Inc.	)	
	)	NAL/Acct. No. 200132980002
Licensee of Station KMAX(AM)	)	
	)	FRN 0001-5660-74
Colfax, Washington	)	

**FORFEITURE ORDER**

**Adopted: January 2, 2002**

**Released: January 4, 2002**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* ("Order"), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to Palouse Country, Inc. ("Palouse"), licensee of Station KMAX(AM), for willful violation of the following Sections of the Commission's Rules ("Rules"): 73.1400(a)(1)(ii) (operating KMAX(AM) without required monitors); 73.1560(a) (failure to operate in compliance with the station license regarding power); 73.1580 (failure to perform periodic complete inspections of the transmitting system); and 73.1870(c)(3) (failure to provide verification that the station has been operating as required by the Rules or the station authorization by making appropriate entries into the station log).<sup>1</sup>

**II. BACKGROUND**

2. On January 12, 2001, the FCC's Seattle, Washington District Office ("Seattle Office") received information from the Enforcement Bureau's Technical and Public Safety Division indicating that KMAX(AM) was not reducing its power at night as required. On January 17 and 18, 2001, an agent from the Seattle Office monitored the on-air signal of KMAX(AM), took field strength measurements, and conducted an inspection of KMAX(AM), all of which resulted in the discovery of the aforementioned violations. On March 1, 2001, the District Director of the Seattle Office issued a Notice of Violation ("NOV") to Palouse. On March 28, 2001, Palouse submitted a response to the NOV in which it claimed to have corrected the violations. Palouse also requested the Commission to consider its past operational history and good faith efforts to correct the violations. On August 30, 2001, the District Director of the Seattle Office issued a *Notice of Apparent Liability for Forfeiture* ("NAL")<sup>2</sup> to Palouse in the amount of

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<sup>1</sup> 47 C.F.R. §§ 73.1400(a)(1)(ii), 73.1560(a), 73.1580, and 73.1870(c)(3).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200132980002 (Enf. Bur., Seattle Office, released August 30, 2001).

\$10,000. On October 5, 2001, Palouse filed a response to the *NAL*.<sup>3</sup> In its response, Palouse does not dispute the violations. Rather, it asserts that payment of the forfeiture amount would cause severe hardship.

### III. DISCUSSION

3. Although other factors can be considered, the best indication of a company's ability to pay a forfeiture amount is its gross receipts.<sup>4</sup> In support of its claim of financial hardship, Palouse has submitted financial data for the years 1999, 2000, and two months of 2001. After reviewing the financial data submitted, we find no evidence in Palouse's response that would support a hardship-based reduction of the forfeiture amount. The proposed forfeiture amount of \$10,000 is not excessive in light of Palouse's gross revenues. Further, we note that although Palouse claims to have corrected the violations, its remedial actions, while commendable, are not a mitigating factor.<sup>5</sup> However, after considering Palouse's overall history of compliance with the Commission's Rules, we conclude that it is appropriate to reduce the forfeiture from \$10,000 to \$8,000.

### IV. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>6</sup> and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>7</sup> Palouse Country, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for violating Sections 73.1400(a)(1)(ii), 73.1560(a), 73.1580, and 73.1870(c)(3) of the Rules.

5. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules,<sup>8</sup> within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>9</sup> Payment shall be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note *NAL/Acct. No. 200132980002*, and *FRN 0001-5660-74*. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>10</sup>

<sup>3</sup> Palouse's response to the *NAL* was untimely. See 47 C.F.R. § 1.80(f)(3). Nevertheless, we address herein the arguments raised in the response.

<sup>4</sup> See *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1992).

<sup>5</sup> See *American InfoAge, LLC*, 16 FCC Rcd 16185 (Enf. Bur. 2001), citing *Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>8</sup> 47 C.F.R. § 1.80.

<sup>9</sup> 47 U.S.C. § 504(a).

<sup>10</sup> See 47 C.F.R. § 1.1914.

6. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Palouse Country, Inc., Jerrold Miller, Esq. at Miller & Miller, P.C., 1990 M Street, NW, Washington, DC 20036.

**FEDERAL COMMUNICATIONS COMMISSION**

David H. Solomon  
Chief, Enforcement Bureau